

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

File No. 1:10-CR-333

EMILTO MORENO-GOMEZ,

Defendant.

Change of Plea Hearing

Before

THE HONORABLE JOSEPH G. SCOVILLE
United States Magistrate Judge
January 26, 2011

APPEARANCES

JOHN F. SALAN
Assistant U.S. Attorney
P.O. Box 208
Grand Rapids, MI 49501
Attorney for Plaintiff

RICHARD G. KESSLER
280 Valley Ave., SW
Grand Rapids, MI 49504
Attorney for Defendant

Digital audio recording transcribed by:

Kevin W. Gaugier, CSR-3065
U.S. District Court Reporter

Grand Rapids, Michigan

January 26, 2011

9:16 a.m.

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P R O C E E D I N G S

THE COURT: Good morning.

MR. SALAN: Good morning, Your Honor.

MR. KESSLER: Good morning, Your Honor.

THE COURT: Case number 1:10-CR-333, United States v. Emilio Moreno-Gomez. Defendant appears in court with counsel, Mr. Kessler; Mr. Salan on behalf of the government.

What is the proposal here, gentlemen?

MR. SALAN: The defendant's going to be pleading to Count 2 of the indictment, Your Honor. We'll dismiss Count 1 at time of sentencing. That's the only agreement.

THE COURT: That's the only agreement?

MR. KESSLER: That is my understanding of the full and complete agreement, Your Honor.

THE COURT: Thank you. Your client does not need an interpreter?

MR. KESSLER: That's correct, Your Honor.

THE COURT: Well, then, if you and he would step up to the lectern, then, please.

1 MR. KESSLER: Thank you, Your Honor. Come on up
2 here.

3 THE COURT: Mr. Moreno-Gomez, as you know, you are
4 in federal court because the government is bringing two
5 criminal charges against you. Those charges are set forth in
6 a document called the indictment. Have you read that?

7 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

8 THE COURT: And spoken to counsel about it?

9 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

10 THE COURT: All right. Now, the attorneys tell me
11 that you have decided to plead guilty to Count -- I'm sorry,
12 what did --

13 MR. KESSLER: Two, Your Honor.

14 THE COURT: Count 2 in exchange for the government's
15 agreement to dismiss Count 1. Is that correct?

16 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

17 THE COURT: And you wish to plead guilty to Count
18 2?

19 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

20 THE COURT: You should understand that no one can be
21 forced to plead guilty to any criminal charge. You have the
22 right to a trial by jury on both of these charges if that's
23 what you want. By the same token, if you wish to plead
24 guilty, that's your right as well as long as you understand
25 what you're doing and you're acting of your own free will. Do

1 you understand that?

2 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

3 THE COURT: And to make sure of that, I'm going to
4 have to ask you some questions. The Clerk will you now give
5 you an oath to respond truthfully.

6 (Defendant Moreno-Gomez was affirmed by the Clerk.)

7 THE COURT: Now, your attorney says that you don't
8 need the help of an interpreter today. Is that correct?

9 DEFENDANT MORENO-GOMEZ: Correct, Your Honor.

10 THE COURT: All right. If I say something to you
11 that you don't understand, just put up your hand and we'll go
12 back over it, all right?

13 Now, we're going to focus on Count 2. Count 2
14 alleges that on or about October 29th of 2009 in Oceana County
15 that you, with the intent to deceive, falsely represented a
16 number to be the Social Security account number assigned to
17 you by the Commissioner of Social Security when in fact it was
18 not your Social Security number.

19 DEFENDANT MORENO-GOMEZ: Correct, Your Honor.

20 THE COURT: Do you understand the nature of that
21 charge?

22 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

23 THE COURT: If you are convicted of this offense,
24 you face up to five years in prison; up to three years
25 thereafter of supervised release, which is like parole; a

1 maximum fine of \$250,000; and a \$100 special assessment. Do
2 you understand those penalties?

3 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

4 THE COURT: Is the defendant also subject to
5 removal?

6 MR. SALAN: He would be, Your Honor.

7 THE COURT: All right.

8 MR. KESSLER: He's currently in Immigration
9 proceedings at this point, Your Honor.

10 THE COURT: Yes, all right. In addition, if you're
11 found guilty of this charge, your conviction will give the
12 government grounds, perhaps more grounds than they have now,
13 to seek your removal from this country, your deportation. Do
14 you understand that as well?

15 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

16 THE COURT: All right. Now, before we go any
17 further, you should understand that this case has been
18 assigned to Judge Janet Neff, who's a federal district judge
19 appointed by the president, and you have the absolute right to
20 have your guilty plea proceeding take place before Judge
21 Neff. As a magistrate judge of this court I also have the
22 authority to take your plea if you consent to that procedure.
23 If you do consent, then I would ask you the questions required
24 by law, and if I find that you're acting of your own free will
25 and you know what you're doing, I would recommend to Judge

1 Neff that she accept the plea. It's going to remain up to
2 her, however, to accept or reject the plea and to impose
3 sentence.

4 So as I said, you have the absolute right to tell me
5 you'd rather have Judge Neff do this or you can agree to have
6 me do it. That's up to you. Do you understand that?

7 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

8 THE COURT: And Mr. Kessler, have you also explained
9 this to your client?

10 MR. KESSLER: I have, Your Honor. We went over it.

11 THE COURT: And does he wish to proceed before Judge
12 Neff or before me?

13 MR. KESSLER: Before yourself, Your Honor.

14 THE COURT: Is that correct, Mr. Moreno-Gomez?

15 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

16 THE COURT: And do you make that decision of your
17 own free will?

18 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

19 THE COURT: And did you sign the consent form?

20 DEFENDANT MORENO-GOMEZ: I did, Your Honor.

21 THE COURT: And you're able to read and write
22 English as well?

23 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

24 THE COURT: I find the defendant has knowingly and
25 voluntarily consented and we'll proceed.

1 I want to go back for just a moment to the charge to
2 make a hundred percent sure that you understand the nature of
3 this charge. It's really pretty simple. It is a crime in
4 this country to tell somebody that a Social Security number is
5 yours, that is, the number that was given to you by the Social
6 Security Administration, when in fact it is not if you intend
7 to deceive them.

8 So in order to convict you of this offense, the
9 government would have to prove, first of all, that you
10 represented a Social Security number to be yours; second, that
11 it wasn't yours; and third, very importantly, that you did so
12 with the intent to deceive. You wanted to fool somebody. You
13 wanted to mislead somebody into thinking that it was your
14 Social Security number. Those are called the elements of the
15 offense, and the government would have the burden of proving
16 each of those things beyond a reasonable doubt. Do you
17 understand that?

18 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

19 THE COURT: But by pleading guilty you relieve the
20 government of the burden of proof that it would otherwise
21 have. Do you understand that as well?

22 DEFENDANT MORENO-GOMEZ: Yes.

23 THE COURT: Now, whenever anyone is pleading guilty,
24 he must keep in mind the penalties that he exposes himself to
25 by pleading guilty. First of all there's prison. You could

1 go to prison for up to five years. I don't know what your
2 sentence will be. Judge Neff will decide that. But it could
3 be any term up to five years. Do you understand that, first
4 of all?

5 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

6 THE COURT: Second, the Court could place you on up
7 to three years thereafter of supervised release. This is like
8 parole. It begins when you're released from prison. During
9 the term of supervision the defendant is required to live by
10 whatever rules the Court has established. If the Court finds
11 that you have violated any of the conditions of supervision,
12 the Court can revoke your supervision and put you back in
13 prison for up to three more years. Understand how that can
14 work?

15 DEFENDANT MORENO-GOMEZ Yes, Your Honor.

16 THE COURT: Now, the Court can impose a fine
17 anywhere from zero dollars to \$250,000. The Court must impose
18 a \$100 special assessment, and as I mentioned before, whenever
19 someone who is not a legal resident of this country is
20 convicted of a felony offense, it makes removal much more
21 likely, deportation much more likely. Do you understand that
22 as well?

23 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

24 THE COURT: All right. We should next talk about
25 the rights you have and the rights you give up by pleading

1 guilty. First of all, you have the right to the assistance of
2 counsel at every stage of the case against you. If you could
3 not afford to hire counsel, the Court would appoint a lawyer
4 for you.

5 Now, you've retained Mr. Kessler to be your lawyer
6 in this case, correct?

7 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

8 THE COURT: You should understand that if you found
9 that you could no longer afford to hire counsel, the Court
10 would provide you a lawyer free of charge. Do you understand
11 that?

12 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

13 THE COURT: Are you asking the Court to appoint a
14 lawyer for you?

15 DEFENDANT MORENO-GOMEZ: No, Your Honor.

16 THE COURT: No. Are you completely satisfied with
17 Mr. Kessler's services in this case?

18 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

19 THE COURT: Has he done everything you've asked him
20 to do? Mr. Kessler, has he done everything you've asked him
21 to do?

22 DEFENDANT MORENO-GOMEZ: Yes.

23 THE COURT: And has he answered all your questions?

24 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

25 THE COURT: The law presumes that you are innocent

1 of both charges until proven guilty, and the government has
2 the burden of proving you guilty beyond a reasonable doubt.
3 This is called the presumption of innocence. It protects you
4 now and stays with you unless a jury finds you guilty after a
5 trial. But by pleading guilty you give up the protection of
6 the presumption of innocence. Do you understand that?

7 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

8 THE COURT: You have the right to persist in your
9 not guilty plea. That means to stick with it. If you do,
10 then you'll have a trial by jury on both charges and the jury
11 will decide whether or not you're guilty.

12 At your trial you'll have certain rights, including
13 the right to counsel at every stage of the case, the right to
14 confront and cross-examine the witnesses against you with
15 counsel's help. You'll have the right to present a defense.
16 This includes your right to compel witnesses to come to court
17 to testify. It also includes the right to present evidence to
18 the Court and to testify in your own defense if you want.

19 By the same token, if you do not wish to testify,
20 this is your right as well. This is called the right against
21 self-incrimination. This means you can't be forced to
22 testify, and neither the Court nor the jury can hold it
23 against you if you exercise this right. Do you understand the
24 rights you would have at a trial?

25 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

1 THE COURT: If you plead guilty, however, you give
2 up most of these rights. If you plead guilty, you give up
3 your right to a trial, your right to confront and
4 cross-examine witnesses, your right to present a defense and
5 to compel witnesses to testify, and your right against
6 self-incrimination. So if you plead guilty, you will not have
7 a trial of any kind and the only further proceeding in the
8 case will be sentencing. Do you understand that?

9 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

10 THE COURT: If you plead guilty, I'm going to have
11 to ask you questions about yourself and about what you did.
12 You should understand that your answers will be admissible
13 against you in a perjury prosecution if they turn out to be
14 false because they're given under oath.

15 Do you now completely understand the nature of the
16 charge against you in Count 1?

17 MR. SALAN: Two.

18 THE COURT: I'm sorry, in Count 2, the penalties
19 that you face if you plead guilty, and the rights you give up
20 by pleading guilty? Do you understand those three things?

21 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

22 THE COURT: We should next talk about the process of
23 sentencing in federal court. Mr. Kessler, have you explained
24 this to your client?

25 MR. KESSLER: Yes, Your Honor. I've gone over the

1 levels and how it works and it's up to the Judge.

2 THE COURT: And Mr. Moreno-Gomez, did you understand
3 what your attorney told you about how sentencing works in
4 federal court?

5 DEFENDANT MORENO-GOMEZ: Yes, sir.

6 THE COURT: Do you understand that the first step of
7 sentencing is for the probation officer to do an investigation
8 and submit a written report called a presentence report, and
9 both you and the government will have a chance to look at that
10 and object to anything that you think is wrong or unfair, and
11 after that process then the presentence report is given to the
12 Judge? Do you understand that?

13 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

14 THE COURT: Now, on the basis of that report the
15 Court will calculate a guideline range which will be expressed
16 in terms of months. Now, the guideline range is a suggested
17 range for your sentence, and in deciding what your sentence
18 will be, Judge Neff will be required to consider the guideline
19 range. But the guidelines are not binding on the Court.
20 They're only advisory. That means that the Court will take
21 into consideration all of the facts of the case, including the
22 guideline range, and the Court will have discretion to impose
23 a sentence that falls within the guideline range or goes above
24 it or below it. Do you understand the idea of the Court's
25 discretion?

1 DEFENDANT MORENO-GOMEZ: Yes, sir.

2 THE COURT: So this means that if your attorney has
3 gone through the guideline book with you, as all good lawyers
4 do, and has tried to give you an idea of what the guideline
5 range is, an idea of what your sentence might be, that this is
6 just a prediction and you shouldn't be relying on it in order
7 to make your decision to plead guilty. Do you understand
8 that?

9 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

10 THE COURT: Has anybody promised you what your
11 sentence will be if you plead guilty?

12 DEFENDANT MORENO-GOMEZ: No.

13 THE COURT: Other than the promise to dismiss Count
14 1, has anybody promised you anything else to get you to plead
15 guilty?

16 DEFENDANT MORENO-GOMEZ: No, Your Honor.

17 THE COURT: Has your attorney promised you
18 anything?

19 DEFENDANT MORENO-GOMEZ: No.

20 THE COURT: Have the officers or attorneys of the
21 government promised you anything?

22 DEFENDANT MORENO-GOMEZ: No, Your Honor.

23 THE COURT: So do you understand that if your
24 sentence is more severe than you now expect, you'll still be
25 bound by your plea and you won't be allowed to withdraw it

1 just because you don't agree with the sentence? Do you
2 understand that?

3 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

4 THE COURT: Now, after you have been sentenced, even
5 though you're pleading guilty, you will have the right to
6 appeal the sentence to the Court of Appeals if you believe
7 that the sentence is either illegal or unreasonable. Do you
8 understand your right to appeal?

9 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

10 THE COURT: So the point I'm making is this. If you
11 think your sentence is too high, that's not a reason to
12 withdraw your plea, but you may have the right to go to the
13 Court of Appeals and ask them to review the sentence. Do you
14 see that distinction?

15 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

16 THE COURT: All right. Is the defendant on
17 probation or parole now to anyone's knowledge?

18 MR. KESSLER: He is not, Your Honor, no.

19 THE COURT: All right. Mr. Moreno-Gomez, it's time
20 for me to ask you how you plead to Count 2, guilty or not
21 guilty?

22 DEFENDANT MORENO-GOMEZ: Guilty, Your Honor.

23 THE COURT: I next need to make sure that you're
24 acting of your own free will. I have to ask you some
25 questions about yourself. How old are you?

1 DEFENDANT MORENO-GOMEZ: Thirty-three -- thirty-two
2 years old.

3 THE COURT: Where were you born?

4 DEFENDANT MORENO-GOMEZ: Guatemala.

5 THE COURT: How far did you get in school?

6 DEFENDANT MORENO-GOMEZ: High school.

7 THE COURT: You finished high school?

8 DEFENDANT MORENO-GOMEZ: Yes.

9 THE COURT: Where was that?

10 DEFENDANT MORENO-GOMEZ: In Guatemala.

11 THE COURT: In Guatemala, in Guatemala are high
12 schools run in Spanish?

13 DEFENDANT MORENO-GOMEZ: Yes.

14 THE COURT: Is Spanish your first language?

15 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

16 THE COURT: And you're able to read and write
17 Spanish?

18 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

19 THE COURT: Any schooling after high school?

20 DEFENDANT MORENO-GOMEZ: I took two years of a
21 bachelor (unintelligible).

22 THE COURT: Where was that?

23 DEFENDANT MORENO-GOMEZ: It was in Guatemala also.

24 THE COURT: So two years of college?

25 DEFENDANT MORENO-GOMEZ: Yes.

1 THE COURT: Did you receive a certificate or
2 degree?

3 DEFENDANT MORENO-GOMEZ: No, I didn't.

4 THE COURT: When did you first come to this
5 country?

6 DEFENDANT MORENO-GOMEZ: In 1997.

7 THE COURT: Have you been here ever since?

8 DEFENDANT MORENO-GOMEZ: I went back to Guatemala in
9 2001 and I came back two months later.

10 THE COURT: How long did you stay in Guatemala in
11 2001?

12 DEFENDANT MORENO-GOMEZ: It was almost two months.

13 THE COURT: Two months?

14 DEFENDANT MORENO-GOMEZ: Yes.

15 THE COURT: So other than that two-month period,
16 you've been living here in this country?

17 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

18 THE COURT: What kind of work have you done in your
19 life?

20 DEFENDANT MORENO-GOMEZ: I work --

21 MR. KESSLER: Can you give some examples of what
22 kind of jobs or companies?

23 DEFENDANT MORENO-GOMEZ: Yeah. I work at making
24 windows and shutters.

25 THE COURT: That's here in this country?

1 DEFENDANT MORENO-GOMEZ: Yes.

2 THE COURT: Is that the last job you had?

3 DEFENDANT MORENO-GOMEZ: The last job I had was I
4 work in sanitation.

5 THE COURT: For who?

6 DEFENDANT MORENO-GOMEZ: For Peterson's Farm.

7 THE COURT: Peterson Farm?

8 DEFENDANT MORENO-GOMEZ: Yes.

9 THE COURT: Are you working now?

10 DEFENDANT MORENO-GOMEZ: No, I don't.

11 THE COURT: Do you have any health problems?

12 DEFENDANT MORENO-GOMEZ: No.

13 THE COURT: Are you under a doctor's care for any
14 reason?

15 DEFENDANT MORENO-GOMEZ: No.

16 THE COURT: Do you take any medicines?

17 DEFENDANT MORENO-GOMEZ: No, Your Honor.

18 THE COURT: Have you ever been treated for mental or
19 psychiatric problems?

20 DEFENDANT MORENO-GOMEZ: No, Your Honor.

21 THE COURT: Do you have a drug or alcohol problem?

22 DEFENDANT MORENO-GOMEZ: No, Your Honor.

23 THE COURT: Have you had any drugs in the last two
24 days?

25 DEFENDANT MORENO-GOMEZ: No, Your Honor.

1 THE COURT: Have you had any alcohol in the last
2 day?

3 DEFENDANT MORENO-GOMEZ: No.

4 THE COURT: Is the defendant on bond?

5 MR. SALAN: Yes, he is, Your Honor.

6 THE COURT: Where are you living now, what city?

7 DEFENDANT MORENO-GOMEZ: I live in Hart.

8 THE COURT: In Hart?

9 DEFENDANT MORENO-GOMEZ: Yes.

10 THE COURT: Is anybody forcing you to plead guilty?

11 DEFENDANT MORENO-GOMEZ: Um --

12 THE COURT: I spoke too fast. Is anyone forcing you
13 to plead guilty?

14 DEFENDANT MORENO-GOMEZ: No, Your Honor.

15 THE COURT: Is your guilty plea the result of any
16 threats or intimidation?

17 DEFENDANT MORENO-GOMEZ: No, Your Honor.

18 THE COURT: Are you pleading guilty because you
19 truly believe you're guilty of this charge?

20 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

21 THE COURT: Are you pleading guilty of your own free
22 will?

23 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

24 THE COURT: Now, please tell me in your own words
25 what happened, what you did that makes you think you're guilty

1 of this charge.

2 DEFENDANT MORENO-GOMEZ: Well, I plead guilty
3 because I know by using a fake Social Security number, it's --
4 by the law it's not right.

5 THE COURT: Okay. You used a fake Social Security
6 number?

7 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

8 THE COURT: When did you do that?

9 DEFENDANT MORENO-GOMEZ: It was last year, last
10 year.

11 THE COURT: It says October 2009.

12 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

13 THE COURT: And was this on an employment
14 application? How did you use the fake Social Security
15 number?

16 DEFENDANT MORENO-GOMEZ: Well, I went to apply for a
17 job at Peterson's.

18 THE COURT: You applied for a job at Peterson
19 Farms?

20 DEFENDANT MORENO-GOMEZ: At Peterson Farms, and --

21 THE COURT: And were you filling out papers?

22 DEFENDANT MORENO-GOMEZ: I fill out application
23 and --

24 THE COURT: Were you filling them out yourself or
25 did you have help?

1 DEFENDANT MORENO-GOMEZ: No, I fill it out myself.

2 THE COURT: And did one of the questions ask you for
3 a Social Security number?

4 DEFENDANT MORENO-GOMEZ: Did they ask me?

5 THE COURT: Yes, on the form, on the application
6 form.

7 DEFENDANT MORENO-GOMEZ: Yes, yes.

8 THE COURT: And did you write down a false Social
9 Security number?

10 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

11 THE COURT: And where did you get that number?

12 DEFENDANT MORENO-GOMEZ: It was on the street.

13 THE COURT: On the street?

14 DEFENDANT MORENO-GOMEZ: Yes.

15 THE COURT: In Chicago?

16 DEFENDANT MORENO-GOMEZ: Grand Rapids.

17 THE COURT: Grand Rapids. The answer is usually
18 Chicago. Did you --

19 MR. KESSLER: Did you see the Press the other day,
20 Your Honor, on Monday? Grand Rapids is catching them.

21 THE COURT: Did you pay for it? Did you pay
22 somebody for it?

23 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

24 THE COURT: Do you have a Social Security number of
25 your own?

1 DEFENDANT MORENO-GOMEZ: No, Your Honor.

2 THE COURT: And when you wrote down this false
3 Social Security number, did you know that it was not yours?

4 DEFENDANT MORENO-GOMEZ: I did know.

5 THE COURT: You did know. And did you have the
6 intent that Peterson Farms would think this is your correct
7 Social Security number and so would give you a job?

8 DEFENDANT MORENO-GOMEZ: Yeah, because they don't
9 ask this, you know. They just ask for your papers and you
10 just give it to them.

11 THE COURT: So you were trying to mislead them into
12 thinking that you were eligible to work in this country?

13 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

14 THE COURT: This wasn't a mistake of any kind?

15 DEFENDANT MORENO-GOMEZ: No, Your Honor.

16 THE COURT: So how did this -- how was this found
17 out?

18 DEFENDANT MORENO-GOMEZ: They did an auditing of the
19 company and they check all the Social Security numbers in that
20 company and they find out that there was some people there
21 that were illegal.

22 THE COURT: Do you have a green card?

23 DEFENDANT MORENO-GOMEZ: I don't, no.

24 THE COURT: You don't.

25 Government have anything to add to the factual

1 basis?

2 MR. SALAN: Only that the form, Your Honor, was the
3 standard Form I-9, and that Peterson Farms actually is located
4 in Shelby, which is an Oceana County address. And as it turns
5 out the number is unassigned, fortunately.

6 THE COURT: Mr. Moreno-Gomez, after hearing
7 everything that's taken place in court today, do you still
8 wish to plead guilty?

9 DEFENDANT MORENO-GOMEZ: Yes, Your Honor.

10 THE COURT: Mr. Kessler, are you aware of any legal
11 reason the plea should not be accepted?

12 MR. KESSLER: None, Your Honor.

13 THE COURT: Thank you. I find the defendant is
14 capable and competent to enter an informed plea, that the plea
15 is made knowingly and with full understanding of the rights
16 I've explained; that it's made voluntarily and free from any
17 force, threats or promises except for the promise to seek
18 dismissal of Count 1 at the time of sentencing. I find the
19 defendant understands the nature of the charge and the
20 penalties provided by law for Count 2 and that that count has
21 a sufficient basis in fact. I'll therefore recommend to Judge
22 Neff that she accept the plea. Both have a seat, please.

23 MR. KESSLER: Thank you, Your Honor.

24 THE COURT: I see the Probation Office is present
25 here today, Mr. Kessler, so you can get the process started

1 for the presentence. Anything more we need to do for today,
2 Mr. Salan?

3 MR. SALAN: No, Your Honor.

4 THE COURT: No objection to continuation of bond?

5 MR. SALAN: No, there's been no problem on that.

6 THE COURT: Okay. Mr. Moreno-Gomez, your bond is
7 continued on the same conditions that were first set. Make
8 sure you stay in touch with Mr. Kessler and with the Pretrial
9 Services officer. Mr. Kessler will let you know the next time
10 you're to be in court.

11 All right. If nothing further, then court's
12 adjourned. Thank you.

13 MR. KESSLER: Thank you, Your Honor.

14 (Proceedings concluded at 9:37 a.m.)
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CERTIFICATE OF REPORTER

I, Kevin W. Gaugier, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the within-entitled and numbered cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript was prepared by me.

/s/ Kevin W. Gaugier

Kevin W. Gaugier, CSR-3065
U.S. District Court Reporter
110 Michigan N.W.
622 Federal Building
Grand Rapids, MI 49503